

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VINCENT AIENNE CHAPOLINI, :
: Plaintiff, : CIVIL ACTION NO. 18-2629
v. :
: ANTHONY CAPODANNO #0119, :
KEVIN DONOHUE #0026, JAMES :
FLORES #0125, WALTER MCDONALD :
(Station Security), GLENN GAMBER :
(Shift Supervisor), THOMAS JOHNSON :
(Captain) #0815, individually and in their :
official capacities, :
: Defendants. :

ORDER

AND NOW, this 5th day of September, 2019, after considering the amended complaint (Doc. No. 25), the motion to dismiss filed by the defendants (Doc. No. 27), and the plaintiff's response to the motion to dismiss (Doc. No. 28); and for the reasons set forth in the separately filed memorandum opinion, it is hereby **ORDERED** as follows:

1. The motion to dismiss (Doc. No. 27) is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. The motion is **GRANTED** to the extent it seeks dismissal of (1) the failure to supervise claim against Glenn Gamber ("Gamber") relating the alleged failure to provide *Miranda* warnings; (2) the failure to supervise claim against Gamber pertaining to the plaintiff's allegations of excessive force; and (3) the Equal Protection Clause violation claim against Walter McDonald. These claims are **DISMISSED WITHOUT PREJUDICE**;

b. The motion is **GRANTED** to the extent it seeks to have the court strike the plaintiff's request for declaratory relief and this request for relief is **STRICKEN** from the amended complaint; and

c. In all other respects, the motion is **DENIED**;

2. Pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), the plaintiff's claims against the defendants in their official capacity and the plaintiff's excessive force claim against James Flores are **DISMISSED WITHOUT PREJUDICE**;

3. The plaintiff, if he has changed his address, shall file a notice of change of address with the clerk of court no later than thirty (30) days from the date of this order;

4. The plaintiff's request for appointment of an attorney (Doc. No. 13) is **DENIED WITHOUT PREJUDICE**;

5. The plaintiff shall have thirty (30) days from the date of this order to file a second amended complaint;

6. If the plaintiff does not file an amended complaint, the defendants shall have a period of fourteen (14) days after the expiration of the period for the plaintiff to file a second amended complaint, to file an answer to the amended complaint; and

BY THE COURT:

/s/ *Edward G. Smith*
EDWARD G. SMITH, J.